

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

DONALD STARBIRD, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 4:07-CV-1050 CAS
v.	)	
	)	
MERCY HEALTH PLANS, INC.,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiffs' Motion to Amend the Complaint. Defendant opposes the motion. For the following reasons, the motion will be granted.

On May 31, 2007, plaintiffs filed this action against Mercy Health Plans, Inc. alleging that this entity violated plaintiffs' rights and denied them and other similarly situated significant benefits under their health plans. On August 13, 2007, Mercy Health Plans, Inc. filed its answer, indicating that the correct defendant is Mercy Health Plans of Missouri, Inc. Plaintiffs' motion to amend the complaint seeks to add this entity as a defendant. Because there is some confusion as to whether Mercy Health Plans, Inc. is still a proper defendant, plaintiffs seek to add Mercy Health Plans of Missouri, Inc. instead of substituting that entity for Mercy Health Plans, Inc. until sufficient discovery can be conducted to determine if one or both entities are proper parties. Although defendant fully admits that the proper party defendant is Mercy Health Plans of Missouri, Inc., it opposes plaintiffs' motion to amend the complaint to add this entity as a defendant.

Leave to amend is to be freely granted under Federal Rule of Civil Procedure 15(a). Because defendant Mercy Health Plans, Inc. admits that Mercy Health Plans of Missouri, Inc. is a proper

defendant, the Court will grant plaintiffs' motion for leave to amend to add this entity. Several procedural devices may be used by Mercy Health Plans, Inc. if it is not a proper defendant, including filing a motion to dismiss. It is not appropriate, however, for the Court to deny plaintiffs' motion for leave to amend the complaint to assert claims against an entity that all sides agree is a proper defendant.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs' Motion to Amend the Complaint is **GRANTED**.

[Doc. 16].

**IT IS FURTHER ORDERED** that the Clerk of Court shall detach and docket plaintiffs' Amended Class Action Complaint, which was filed as an attachment to their motion for leave.

A handwritten signature in black ink, appearing to read "Charles A. Shaw", written over a horizontal line.

**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 13th day of September, 2007.